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Program, which is allowed only when there is no Approved State CWD Herd Certification Program in their State and which is subject to the availability of appropriated funds, the enrollment date will be the earlier of:

(A) The date APHIS approves enrollment; or

(B) If APHIS determines that the herd owner has maintained the herd in a manner that substantially meets the conditions specified in § 55.23(b) for herd owners, the first day that the herd participated in such a program. However, in such cases the enrollment date may not be set at a date more than 3 years prior to the date that APHIS approved enrollment of the herd.

(iii) For new herds that were formed from and contain only animals from herds enrolled in the CWD Herd Certification Program, the enrollment date will be the latest enrollment date for any source herd for the animals.

(2) [Reserved]

(Approved by the Office of Management and Budget under control number 0579-0237)

§ 55.23 Responsibilities of States and enrolled herd owners.

(a) *Approval of State programs and responsibilities of States.* In reviewing a State program's eligibility to be designated an Approved State CWD Herd Certification Program, the Administrator will evaluate a written statement from the State that describes the State's CWD control and deer, elk, and moose herd certification activities and that cites relevant State statutes, regulations, and directives pertaining to animal health activities and reports and publications of the State. In determining whether the State program qualifies, the Administrator will determine whether the State:

(1) Has the authority, based on State law or regulation, to restrict the intrastate movement of all CWD-positive, CWD-suspect, and CWD-exposed animals.

(2) Has the authority, based on State law or regulation, to require the prompt reporting of any animal suspected of having CWD and test results for any animals tested for CWD to State or Federal animal health authorities.

(3) Has, in cooperation with APHIS personnel, drafted and signed a memorandum of understanding with APHIS that delineates the respective roles of the State and APHIS in CWD Herd Certification Program implementation.

(4) Has placed all known CWD-positive, CWD-exposed, and CWD-suspect animals and herds under movement restrictions, with movement of animals from them only for destruction or under permit.

(5) Has effectively implemented policies to:

(i) Promptly investigate all animals reported as CWD-suspect animals;

(ii) Designate herds as CWD-positive, CWD-exposed, or CWD-suspect and promptly restrict movement of animals from the herd after an APHIS employee or State representative determines that the herd contains or has contained a CWD-positive animal;

(iii) Remove herd movement restrictions only after completion of a herd plan agreed upon by the State representative, APHIS, and the owner;

(iv) Conduct an epidemiologic investigation of CWD-positive, CWD-exposed, and CWD-suspect herds that includes the designation of suspect and exposed animals and that identifies animals to be traced;

(v) Conduct tracebacks of CWD-positive animals and traceouts of CWD-exposed animals and report any out-of-State traces to the appropriate State promptly after receipt of notification of a CWD-positive animal; and

(vi) Conduct tracebacks based on slaughter or other sampling promptly after receipt of notification of a CWD-positive animal at slaughter.

(6) Effectively monitors and enforces State quarantines and State reporting laws and regulations for CWD.

(7) Has designated at least one State animal health official, or has worked with APHIS to designate an APHIS official, to coordinate CWD Herd Certification Program activities in the State.

(8) Has programs to educate those engaged in the interstate movement of deer, elk, and moose regarding the identification and recordkeeping requirements of this part.

(9) Requires, based on State law or regulation, and effectively enforces identification of all animals in herds

participating in the CWD Herd Certification Program;

(10) Maintains in the CWD National Database administered by APHIS, or in a State database approved by the Administrator as compatible with the CWD National Database, the State's:

(i) Premises information and assigned premises numbers;

(ii) Individual animal information on all deer, elk, and moose in herds participating in the CWD Herd Certification Program in the State;

(iii) Individual animal information on all out-of-State deer, elk, and moose to be traced; and

(iv) Accurate herd status data.

(11) Requires that tissues from all CWD-exposed or CWD-suspect animals that die or are depopulated or otherwise killed be submitted to a laboratory authorized by the Administrator to conduct official CWD tests and requires appropriate disposal of the carcasses of CWD-positive, CWD-exposed, and CWD-suspect animals.

(b) *Responsibilities of enrolled herd owners.* Herd owners who enroll in the CWD Herd Certification Program agree to maintain their herds in accordance with the following conditions:

(1) Each animal in the herd must be identified using means of animal identification specified in § 55.25. All animals in an enrolled herd must be identified before reaching 12 months of age. In addition, all animals of any age in an enrolled herd must be identified before being moved from the herd premises. In addition, all animals in an enrolled herd must be identified before the inventory required under paragraph (b)(4) of this section, and animals found to be in violation of this requirement during the inventory must be identified during or after the inventory on a schedule specified by the APHIS employee or State representative conducting the inventory;

(2) The herd premises must have perimeter fencing adequate to prevent ingress or egress of cervids. This fencing must also comply with any applicable State regulations;

(3) The owner must immediately report to an APHIS employee or State representative all animals that escape or disappear, and all deaths (including animals killed on premises maintained

for hunting and animals sent to slaughter) of deer, elk, and moose in the herd aged 12 months or older; Except that, APHIS employees or State representatives may approve reporting schedules other than immediate notification when herd conditions warrant it in the opinion of both APHIS and the State. The report must include the identification numbers of the animals involved and the estimated time and date of the death, escape, or disappearance. For animals that die (including animals killed on premises maintained for hunting and animals sent to slaughter), the owner must inform an APHIS or State representative and must make the carcasses of the animals available for tissue sampling and testing in accordance with instructions from the APHIS or State representative. In cases where animals escape or disappear and thus are not available for tissue sampling and testing, or when the owner provides samples that are of such poor quality that they cannot be tested for CWD, an APHIS representative will investigate whether the unavailability of animals or usable samples for testing constitutes a failure to comply with program requirements and will affect the herd's status in the CWD Herd Certification Program;

(4) The owner must maintain herd records that include a complete inventory of animals that states the species, age, and sex of each animal, the date of acquisition and source of each animal that was not born into the herd, the date of disposal and destination of any animal removed from the herd, and all individual identification numbers (from tags, tattoos, electronic implants, etc.) associated with each animal. Upon request by an APHIS employee or State representative, the owner must allow either of these officials or a designated accredited veterinarian access to the premises and herd to conduct an inventory. The owner will be responsible for assembling, handling, and restraining the animals and for all costs incurred to present the animals for inspection. The APHIS employee or State representative may order either an inventory that consists of review of herd records with visual examination of an enclosed group of animals, or a complete physical herd

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inventory with verification to reconcile all animals and identifications with the records maintained by the owner. In the latter case, the owner must present the entire herd for inspection under conditions where the APHIS employee, State representative, or accredited veterinarian can safely read all identification on the animals. During inventories, the owner must cooperate with the inspector to resolve any discrepancies to the satisfaction of the person performing the inventory. Inventory of a herd will be conducted no more frequently than once per year, unless an APHIS employee, State representative, or accredited veterinarian determines that more frequent inventories are needed based on indications that the herd may not be in compliance with CWD Herd Certification Program requirements. A complete physical herd inventory must be performed on a herd in accordance with this paragraph at the time a herd is enrolled in the CWD Herd Certification Program; Except that, APHIS may accept a complete physical herd inventory performed by an APHIS employee, State representative, or accredited veterinarian not more than 1 year before the herd's date of enrollment in the CWD Herd Certification Program as fulfilling the requirement for an initial inventory. In addition, a complete physical herd inventory must be performed for all herds enrolled in the CWD Herd Certification Program no more than 3 years after the last complete physical herd inventory for the herd;

(5) If an owner wishes to maintain separate herds, he or she must maintain separate herd inventories, records, working facilities, water sources, equipment, and land use. There must be a buffer zone of at least 30 feet between the perimeter fencing around separate herds, and no commingling of animals may occur. Movement of animals between herds must be recorded as if they were separately owned herds;

(6) New animals may be introduced into the herd only from other herds enrolled in the CWD Herd Certification Program. If animals are received from an enrolled herd with a lower program status, the receiving herd will revert to that lower program status. If animals

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are obtained from a herd not participating in the program, then the receiving herd will be required to start over in the program.

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§ 55.24 Herd status.

(a) *Initial and subsequent status.* When a herd is first enrolled in the CWD Herd Certification Program, it will be placed in First Year status; except that, if the herd is composed solely of animals obtained from herds already enrolled in the Program, the newly enrolled herd will have the same status as the lowest status of any herd that provided animals for the new herd. If the herd continues to meet the requirements of the CWD Herd Certification Program, each year, on the anniversary of the enrollment date the herd status will be upgraded by 1 year; *i.e.*, Second Year status, Third Year status, Fourth Year status, and Fifth Year status. One year from the date a herd is placed in Fifth Year status, the herd status will be changed to Certified, and the herd will remain in Certified status as long as it is enrolled in the program, provided its status is not lost or suspended in accordance with this section.

(b) *Loss or suspension of herd status.*
(1) If a herd is designated a CWD-positive herd or a CWD-exposed herd, it will immediately lose its program status and may only reenroll after entering into a herd plan.

(2) If a herd is designated a CWD-suspect herd, a trace back herd, or a trace forward herd, it will immediately be placed in Suspended status pending an epidemiologic investigation by APHIS or a State animal health agency. If the epidemiologic investigation determines that the herd was not commingled with a CWD-positive animal, the herd will be reinstated to its former program status, and the time spent in Suspended status will count toward its promotion to the next herd status level.

(i) If the epidemiologic investigation determines that the herd was commingled with a CWD-positive animal, the herd will lose its program status and will be designated a CWD-exposed herd.

(ii) If the epidemiological investigation is unable to make a determination